

Nos. 18510 to 18533, 18866 to 18872

IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

UNITED AIR LINES, INC.,

Appellant,

vs.

JANICE WIENER *et al.* (24 cases); CATHERINE B.
NOLLENBERGER *et al.* (7 cases); UNITED STATES OF
AMERICA (31 cases),

Appellees.

APPENDIX TO OPENING BRIEF
OF
APPELLANT UNITED AIR LINES, INC.

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APPENDIX TO OPENING BRIEF
OF
APPELLANT UNITED AIR LINES, INC.

PART I

Names and numbers of each case; amounts of recovery by plaintiffs; amounts of contribution allowed as between the Government and United; and cases by groups.

PART II

Record references to pleadings and other portions of the several records showing the existence of jurisdiction; and other pertinent record citations.

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PART I.

Names and numbers of each case, and amounts of recovery by plaintiffs; computed amounts of contribution as between Government and United; cases by groups.

Numbers both here and below (the latter in parenthesis) and names of each case:

No. 18510

(No. 469-58-PH)

JANICE WIENER, as Executrix of the Estate of
Norton Wiener, Deceased,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a corporation,

Defendants.

No. 18511

(No. 923-58-PH)

STEPHEN EMANUEL, a minor; and CHRISTINE
EMANUEL, a minor; by RUTH W. EMANUEL,
their Guardian Ad Litem, and RUTH W. EMAN-
UEL,

Plaintiffs,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a corporation,

Defendants.

No. 18512
(No. 970-58-PH)

ISABELLE M. LARAVA, as personal representative of Clare J. Larava, Deceased; ISABELLE M. LARAVA, as Executrix of the Estate of Clare J. Larava, Deceased; ISABELLE M. LARAVA, personally, as the wife and heir of Clare J. Larava, Deceased; DIANE C. (LARAVA) SIMON, daughter and heir of Clare J. Larava, Deceased,
Plaintiffs,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a corporation,
Defendants.

No. 18513
(No. 1040-58-PH)

RUTH E. SIMMONS, Administratrix of the Estate of Wendell A. Simmons, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18514
(No. 1041-58-PH)

ETHYL E. KEAN, Administratrix of the Estate of Ralph C. Kean, Jr., Deceased.
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18515
(No. 1042-58-PH)

HAZEL N. McKINNEY, Administratrix of the Estate of Robert James McKinney, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18516
(No. 1086-58-PH)

LEONA MAE PETRIE, as personal representative of John A. Petrie, Deceased; LEONA MAE PETRIE, personally, wife and heir of John A. Petrie, Deceased; LINDA LOUELLA PETRIE, daughter and heir of John A. Petrie, Deceased; JOHN WILLIAM PETRIE, son and heir of John A. Petrie, Deceased; and KURT JEFFREY PETRIE, son and heir of John A. Petrie, Deceased,

Plaintiffs,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a corporation,
Defendants.

No. 18517
(No. 1112-58-PH)

MAX KAUFMAN, as Administrator of the Estate of Donald Jack Kaufman, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18518
(No. 1158-58-PH)

DAISY R. FEDRICK,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a corporation,

Defendants.

No. 18519
(No. 1195-58-PH)

RAYMOND S. LIPSON, Administrator of the Estate
of David H. Lipson, deceased; and RAYMOND S.
LIPSON, Administrator of the Estate of Edith R.
Lipson, Deceased,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a corporation,

Defendants.

No. 18520
(No. 29-59-PH)

DONALD G. RHOADES, Administrator of the Es-
tate of Warren Donald Rhoades, Deceased,

Plaintiff,

vs.

UNITED AIR LINES, INC., a Delaware corporation,
Defendant.

No. 18521
(No. 30-59-PH)

MARGARET K. RANKIN, Administratrix of the
Estate of Robert Earl Rankin, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18522
(No. 64-59-PH)

MARTHA H. KALLENBAUGH, Executrix of the
Estate of Samuel Robert Kallenbaugh, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18523
(No. 281-60-PH)

RUTH L. THOMAS,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18524
(No. 76-59-PH)

CAROL U. AARONSON; JOEL S. AARONSON,
a minor, DAVID C. AARONSON, a minor; and
JULIE ANN AARONSON, a minor; by CAROL
U. AARONSON, their Guardian Ad Litem,

Plaintiffs,

vs.

UNITED STATES OF AMERICA, and UNITED
AIR LINES, INC., a Delaware corporation,

Defendants.

No. 18525
(No. 88-59-PH)

DOROTHY M. WEIL,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC.,

Defendants.

No. 18526
(No. 641-59-PH)

EDITH WAGNER TRUJILLO,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,

Defendants.

No. 18527
(No. 288-59-PH)

HELEN A. FRIEDEL and BANK OF AMERICA
NATIONAL TRUST & SAVINGS ASSOCIA-
TION, a National Banking Association, as personal
representatives of Robert H. Friedel, Deceased,
Plaintiffs,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18528
(No. 309-59-PH)

S. RUSH BAILEY, III, a minor; and TINA
FRANCES BAILEY, a minor; by LORETTA
KESSLER, their Guardian Ad Litem; and LOR-
ETTA KESSLER, individually,
Plaintiffs,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18529
(No. 310-59-PH)

CHARLES LEO RACHFORD, Executor of the Es-
tate of Helen Anna Fox Rachford, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18530
(No. 355-59-PH)

ARLO W. MUNCH, Administrator of the Estate of
William H. Torrans, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18531
(No. 361-59-PH)

ALICE L. HIGHT, Special Administratrix of the Es-
tate of Robert J. Hight, Deceased,
Plaintiff,

vs.

UNITED STATES OF AMERICA; and UNITED
AIR LINES, INC., a Delaware corporation,
Defendants.

No. 18532
(No. 369-59-PH)

MARY A. PARSONS, Special Administratrix of the
Estate of Clayton Parsons, Deceased,
Plaintiff,

vs.

UNITED AIR LINES, INC., a Delaware corporation,
Defendant.

No. 18533
(No. 265-59-PH)

GREAT AMERICAN INSURANCE COMPANY, a
corporation,

Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant and Third Party Plaintiff,

vs.

UNITED AIR LINES, INC., a corporation,
Third Party Defendant.

No. 18866
(No. 62-1600-PH)

UNITED STATES OF AMERICA, CATHERINE
B. NOLLENBERGER, LAWRENCE P. NOL-
LENBERGER by his Guardian ad Litem, Catherine
B. Nollenberger, and WILLIAM EDWARD NOL-
LENBERGER,

Plaintiffs,

vs.

UNITED AIR LINES, INC., a corporation,
Defendant.

No. 18867
(No. 62-1601-PH)

PERNITA C. THOMPSON, and MILTON LeROY
THOMPSON and PHILLIP EDWARD THOMP-
SON, by their Guardian ad Litem, Pernita C. Thomp-
son,

Plaintiffs,

vs.

UNITED AIR LINES, INC., a Delaware corporation,
Defendant.

No. 18868

(No. 62-1602-PH)

MYRTLE C. THEOBALD, and CAROL ANN
THEOBALD and TERESA KAY THEOBALD,
by this Guardian ad Litem, Myrtle C. Theobald,

Plaintiffs,

vs.

UNITED AIR LINES, INC., a Delaware corporation,
Defendant.

No. 18869

(No. 62-1603-PH)

FAITH C. PARIS, individually and as Guardian ad
Litem of MARK GEORGE PARIS, a minor,
SCOTT STEVEN PARIS, a minor, and DALE
FRANCIS PARIS, a minor,

Plaintiff,

vs.

UNITED AIR LINES, INC., etc.,

Defendants.

No. 18870

(No. 62-1604-PH)

UNITED STATES OF AMERICA, LELIA R.
PEBLES, Administratrix of the Estate of Frank R.
Pebles, Deceased,

Plaintiff,

vs.

UNITED AIR LINES, INC., a Delaware corporation,
Defendant.

No. 18871

(No. 62-1605-PH)

UNITED STATES OF AMERICA, MARY F. DARMODY, Administratrix of the Estate of ROBERT E. DARMODY, Deceased,

Plaintiffs.

vs.

UNITED AIR LINES, INC., a corporation,

Defendant.

No. 18872

(No. 62-1606-PH)

UNITED STATES OF AMERICA, MARJORIE I. MATLOCK and MARDALE MATLOCK, by her Guardian ad Litem, Marjorie I. Matlock,

Plaintiffs,

vs.

UNITED AIR LINES, INC., a Delaware corporation.

Defendant.

Amounts of recovery by plaintiffs and computed amounts of contribution as between Government and United (excluding interest and costs), each case being identified by plaintiff's name (excluding the United States, in the cases where it joins as a plaintiff) and its number here:

<u>Plaintiff</u>	<u>No. here</u>	<u>Recovery vs. Government</u>	<u>Recovery vs. United</u>	<u>Contribution by United</u>	<u>Contribution by Government</u>
Wiener	18510	\$128,429.75	\$ 45,999.19	\$ 45,999.19	\$ —
Emanuel	18511	207,877.00	186,222.40	103,938.50	93,111.20
Larava	18512	49,627.20	65,145.00	24,813.60	32,572.50
Simmons	18513	250,363.64	226,439.16	125,181.82	113,219.58
Kean	18514	201,470.70	175,906.42	100,735.35	87,953.21
McKinney	18515	131,413.00	131,413.00	65,706.50	65,706.50
Petrie	18516	151,603.59	151,346.59	75,801.80	75,673.30
Kaufman	18517	40,174.04	25,779.04	20,087.02	12,889.52
Fedrick	18518	12,500.00	12,500.00	6,250.00	6,250.00
Lipson	18519	10,600.00	10,600.00	5,300.00	5,300.00
Rhoades	18520	—	45,000.00	—	—
Rankin	18521	197,410.43	175,989.80	98,705.22	87,994.90
Kallenbaugh	18522	244,675.75	164,005.25	122,337.88	82,002.63
Thomas	18523	75,591.45	72,271.72	37,795.73	36,135.86
Aaronson	18524	224,294.25	175,207.65	112,147.13	87,603.83
Weil	18525)				
)	5,040.00	313.25	2,520.00	156.63
Trujillo	18526)				
Friedel	18527	57,086.12	28,782.12	28,543.06	14,391.06
Bailey	18528	140,010.82	140,010.82	70,005.41	70,005.41
Rachford	18529	81,720.58	80,970.58	40,860.29	40,485.29
Munch	18530	40,267.50	25,467.50	20,133.75	12,733.75
Hight	18531	423,954.68	293,516.50	211,977.34	146,758.25
Parsons	18532	—	142,232.27	—	—
Great American Insurance Co.	18533	1,257.00	—	628.50	—
Nollenberger	18866	—	172,540.49	—	—
Thompson	18867	—	138,678.40	—	—
Theobald	18868	—	163,243.85	—	—
Paris	18869	—	151,000.00	—	—
Pebles	18870	—	124,000.00	—	—
Darmody	18871	—	165,000.00	—	—
Matlock	18872	—	207,780.00	—	—

Cases by groups (listed by plaintiff's name excluding United States where it is a plaintiff):

Wiener cases (24)

Wiener, Emanuel, Larava, Simmons, Kean, McKinney, Petrie, Kaufman, Fedrick, Lipson, Rhoades, Rankin, Kallenbaugh, Thomas, Aaronson, Weil, Trujillo, Friedel, Bailey, Rachford, Munch, Hight, Parsons, Great American Insurance Company.

Nevada cases (7)

Nollenberger, Thompson, Theobald, Paris, Pebles, Dardomy, Matlock.

Non-Government employee cases (22)

Weiner, Emanuel, Larava, Simmons, Kean, McKinney, Petrie, Kaufman, Fedrick, Lipson, Rankin, Kallenbaugh, Thomas, Aaronson, Weil, Trujillo, Friedel, Bailey, Rachford, Munch, Hight, Great American Insurance Company.

*Government employee cases (9)**

All Nevada cases, as above; also Parsons and Rhodes of the Wiener cases.

*The Government is an appellee in all cases and an appellant in all but the nine Government employee cases.

PART II.

Record references to pleadings and other portions of the several records necessary to show the existence of jurisdiction and other pertinent record citations.

NUMBER—18510

NAME—Wiener

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R. 2, 3, 6-7; Answer of United, R. 35; Cross-Claim of United, R. 563; Answer of Government to Cross-Claim, R. 1259; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R. 2554; Judgment on Cross-Claims of Government and United, R. 2584; Notices of Appeal filed by United Air Lines, Inc., R. 2620, 2625, 2629.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R. 2583.

NUMBER—18511

NAME—Emanuel*

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 10, 12; Answer of United, R.* 40, 43; Cross-Claim of United, R.* 244; Answer of Gov-

Hereinafter, all citations to the record in the particular case under discussion will be starred, thus: R Certain documents (i.e., the pre-trial conference orders) applicable to each of the Wiener cases appear only in the record in the Wiener case. References to that record will be abbreviated thus:

ernment to Cross-Claim, R.* 330, 334; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 597; Judgment on Cross-Claims of Government and United, R.* 600; Notices of Appeal filed by United Air Lines, Inc., R.* 633, 638, 641.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 612.

NUMBER—18522

NAME—Larava

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 13; Cross-Claim of United, R.* 215; Answer of Government to Cross-Claim, R.* 310, 314, 315; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 578; Judgment on Cross-Claims of Government and United, R.* 581; Notices of Appeal filed by United Air Lines, Inc., R.* 614, 619, 623.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 594.

R Occasionally, references will be made to the record in cases (not including Wiener) other than the one under discussion. Such references will indicate the name of the case to which reference is made, thus, for example: R (Paris)

NUMBER—18533

NAME—Simmons

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 7; Cross-Claim of United, R.* 277; Answer of Government to Cross-Claim, R.* 360, 364, 365; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 650; Judgment on Cross-Claims of Government and United, R.* 653; Notices of Appeal filed by United Air Lines, Inc., R.* 686, 691, 695.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 664.

NUMBER—18514

NAME—Kean

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 12; Cross-Claim of United, R.* 267; Answer of Government to Cross-Claim, R.* 350, 354, 355; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 633; Judgment on Cross-Claims of Government and United, R.* 636; Notices of Appeal filed by United Air Lines, Inc., R.* 669, 674, 678.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 647.

NUMBER—18515

NAME—McKinney

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 8; Cross-Claim of United, R.* 207; Answer of Government to Cross-Claim, R.* 290, 294; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 500; Judgment on Cross-Claims of Government and United, R.* 504; Notices of Appeal filed by United Air Lines, Inc., R.* 539, 542, 546.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 517.

NUMBER—18516

NAME—Petrie

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 14; Cross-Claim of United, R.* 282; Answer of Government to Cross-Claim, R.* 374, 378, 379; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 611; Judgment on Cross-Claims of Government and United, R.*

614; Notices of Appeal filed by United Air Lines, Inc., R.* 685, 688, 692.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 665.

NUMBER—18517

NAME—Kaufman

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R. 17; Cross-Claim of United, R.* 219; Answer of Government to Cross-Claim, R.* 304, 308, 309; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 606; Judgment on Cross-Claims of Government and United, R.* 609; Notices of Appeal filed by United Air Lines, Inc., R.* 645, 649, 654.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 625.

NUMBER—18518

NAME—Fedrick

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 22; Cross-Claim of United, R.* 229; Answer of Government to Cross-Claim, R.* 318, 322, 323; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment

on Cross-Claims of Government and United, R.* 529; Notices of Appeal filed by United Air Lines, Inc., R.* 554.

NUMBER—18519

NAME—Lipson

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 15, 16; Cross-Claim of United, R. 218; Answer of Government to Cross-Claim, R.* 310, 314, 315; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment on Cross-Claims of Government and United, R.* 514; Notices of Appeal filed by United Air Lines, Inc., R.* 567.

NUMBER—18520

NAME—Rhoades

GROUP—Wiener—Government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 9, 10; Cross-Claim of United, R.* 212; Answer of Government to Cross-Claim, R.* 295, 299, 300; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus United, R.* 468; Judgment on Cross-Claim of United, R.* 467-A; Notices of Appeal filed by United Air Lines, Inc., R.* 512, 515, 518.

Record Citations, Other Than to Jurisdiction

Memorandum in opposition to government's motion to dismiss United's cross-claim R.* 453; Memorandum

and judgment (dismissing United's Cross-claim), R.* 467-A; Order denying United's Motion for New Trial, R.* 473.

NUMBER—18521

NAME—Rankin

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 10, 11; Cross-Claim of United, R.* 206; Answer of Government to Cross-Claim, R.* 289, 293, 294; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 655; Judgment on Cross-Claims of Government and United, R.* 658; Notices of Appeal filed by United Air Lines, Inc., R.* 674, 678, 682.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 661.

NUMBER—18522

NAME—Kallenbaugh

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 16, 17; Cross-Claim of United, R.* 221; Answer of Government to Cross-Claim, R.* 303, 307, 308; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 586; Judgment on Cross-Claims of Government and United, R.* 590; No-

tices of Appeal filed by United Air Lines, Inc., R.* 624, 629, 633.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 601.

NUMBER—18523

NAME—Thomas

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 132, 133; Cross-Claim of United, R.* 132, 136; Answer of Government to Cross-Claim, R.* 234; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 509; Judgment on Cross-Claims of Government and United, R.* 511; Notices of Appeal filed by United Air Lines, Inc., R.* 543, 548, 552.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 523.

NUMBER—18524

NAME—Aaronson

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 20; Cross-Claim of United, R.* 212; Answer of Government to Cross-Claim, R.* 296, 300, 301; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Confer-

ence Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 573; Judgment on Cross-Claims of Government and United, R.* 575; Notices of Appeal filed by United Air Lines, Inc., R.* 606, 611, 614.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 586.

NUMBER—18525

NAME—Weil

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 15, 16; Cross-Claim of United, R.* 206; Answer of Government to Cross-Claim, R.* 287, 291, 292; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 629; Judgment on Cross-Claims of Government and United, R.* 633; Notices of Appeal filed by United Air Lines, Inc., R.* 663, 666, 669.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 637.

NUMBER—18526

NAME—Trujillo

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 1; Answer of United, R.* 14; Cross-Claim of United, R.* 191; Answer of Government to

Cross-Claim, R.* 253, 257, 258; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R. (Weil) 629; Judgment on Cross-Claims of Government and United, R. (Weil) 634; Notices of Appeal filed by United Air Lines, Inc., R.* 515, 518, 521.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 489.

NUMBER—18527

NAME—Friedel

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 60; Cross-Claim of United, R.* 267; Answer of Government to Cross-Claim, R.* 350, 353, 354; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 602; Judgment on Cross-Claims of Government and United, R.* 604; Notices of Appeal filed by United Air Lines, Inc., R.* 635, 638, 642.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 615.

NUMBER—18528

NAME—Bailey

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 9; Answer of United, R.* 30; Cross-Claim of United, R.* 234; Answer of Government to Cross-Claim, R.* 353, 357, 358; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 583, 618; Judgment on Cross-Claims of Government and United, R.* 586; Notices of Appeal filed by United Air Lines, Inc., R.* 621, 624, 627.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 598.

NUMBER—18529

NAME—Rachford

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 14; Cross-Claim of United, R.* 203; Answer of Government to Cross-Claim, R.* 286, 290, 291; Pre-Trial Conference Order, R.* 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 542; Judgment on Cross-Claims of Government and United, R.* 544, Notices of Appeal filed by United Air Lines, Inc., R.* 576, 581, 584.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 565.

NUMBER—18530

NAME—Munch

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 14; Cross-Claim of United, R.* 214; Answer of Government to Cross-Claim, R.* 302, 306, 307; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 582; Judgment on Cross-Claims of Government and United, R.* 585; Notices of Appeal filed by United Air Lines, Inc., R.* 618, 623, 627.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 597.

NUMBER—18531

NAME—Hight

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 13, 14; Cross-Claim of United, R.* 206; Answer of Government to Cross-Claim, R.* 291, 295, 296; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus defendants, R.* 572; Judgment on

Cross-Claims of Government and United, R.* 575; Notices of Appeal filed by United Air Lines, Inc., R.* 609, 614, 618.

Record Citations, Other Than to Jurisdiction

Order denying United's Motion for New Trial, R.* 687.

NUMBER—18532

NAME—Parsons

GROUP—Wiener—Government Employee

Jurisdiction

Complaint, R.* 2, 3; Answer of United, R.* 13, 14; Cross-Claim of United, R.* 211; Answer of Government to Cross-Claim, R. 301, 305, 306; Pre-Trial Conference Order, R. 1591, 1595; Pre-Trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment for plaintiffs versus United, R.* 519; Judgment on Cross-Claim of United, R.* 515; Notices of Appeal filed by United Air Lines, Inc., R.* 571, 574, 576.

Record Citations, Other Than to Jurisdiction

Opposition to Government's motion to dismiss United's cross-claims R.* 506; Memorandum and judgment (dismissing United's cross-claim), R.* 515; Order denying United's Motion for New Trial, R.* 532.

NUMBER—18533

NAME—Great American Insurance Co.

GROUP—Wiener—Non-government Employee

Jurisdiction

Complaint (against United States only) R.* 2; Third Party Complaint against United, R.* 54; United's An-

swer to Third Party Complaint, R.* 87; Pre-trial Conference Order, R. 1591, 1595; Pre-trial Conference Order (re: Cross-Claims), R. 1777, 1778; Judgment on Third Party Complaint, R.* 155; Notice of Appeal, R.* 166.

NUMBER—18866

NAME—Nollenberger

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 1; Answer of United, R.* 11; Cross-Claim of United, R. 13, 14; Answer of Government to Cross-Claim, R.* 28, 29; Pre-Trial Conference Order, R. (Paris) 31, 34; Judgment for plaintiffs versus United, R.* 539; Judgment on Cross-Claim of United, R.* 544; Notices of Appeal filed by United Air Lines, Inc., R.* 606, 608, 610.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on the issue of liability, R.* 544; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party Claims R.* 525; Judgment dismissing United's Counterclaim against United States and Denying Motion for Reconsideration, R.* 544; Order denying United's Motion for New Trial, R.* 576.

NUMBER—18867

NAME—Thompson

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 4, 5; Answer of United, R.* 11; Cross-Claim of United, R.* 14; Answer of Government to Cross-Claim, R. 29, 30; Pre-Trial Conference Order, R. (Paris) 31, 34; Judgment for plaintiffs versus United, R.* 510; Judgment on Cross-Claim of United, R.* 513; Notices of Appeal filed by United Air Lines, Inc., R.* 567, 569, 571.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on issue of liability, R.* 320; Motion for reconsideration of ruling dismissing United's Cross-Claims, Counterclaims or third Party Claims, R* 500; Judgment dismissing United's Counterclaim and Denying Motion for Reconsideration, R.* 513; Order denying United's Motion for New Trial, R.* 559.

NUMBER—18868

NAME—Theobald

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 3, 4; Answer of United, R.* 12; Cross-Claim of United, R.* 12, 15; Answer of Government to Cross-Claim, R.* 27, 28; Pre-Trial Conference Order, R. (Paris) 31, 34; Judgment for plaintiffs versus United, R.* 520; Judgment on Cross-Claim United, R.* 523; Notices of Appeal filed by United Air Lines, Inc., R.* 577, 579, 581.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on the issue of liability, R.* 314; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party Claims, R.* 510; Judgment Dismissing United's Counterclaim against United States and Denying Motion for Reconsideration, R.* 523; Order Denying United's Motion for New Trial, R.* 570.

NUMBER—18869

NAME—Paris

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 1, 6; Answer of United, R.* 7; Cross-Claim of United, R.* 94; Answer of Government to Cross-Claim, R.* 221; Pre-Trial Conference Order, R.* 31, 34; Judgment for plaintiffs versus United, R.* 241; Judgment on Cross-Claim of United, R.* 221; Notices of Appeal filed by United Air Lines, Inc., R.* 285, 287, 289.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on issue of liability, R.* 174; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party claims, R.* 230; Judgment dismissing United's Third Party Claim against United States and denying Motion for Reconsideration, R.* 244; Order denying United's Motion for New Trial, R.* 282.

NUMBER—18870

NAME—Pebles

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 1; Answer of United, R.* 24; Cross-Claim of United, R.* 33, 35; Answer of Government to Cross-Claim, R.* 46, 47; Pre-Trial Conference Order, R. (Paris) 31, 34; Judgment for plaintiffs versus United, R.* 311; Judgment on Cross-Claim of United, R.* 314; Notices of Appeal filed by United Air Lines, Inc., R.* 387, 389, 391.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on issue or liability, R.* 285; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party Claims, R.* 301; Judgment dismissing United's Counterclaim and denying Motion for Reconsideration, R.* 314; Order denying United's Motion for New Trial, R.* 380.

NUMBER—18871

NAME—Darmody

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 3; Answer of United, R.* 8; Cross-Claim of United, R.* 23; Answer of Government to Cross-Claim, R.* 33; Pre-Trial Conference Order, R. (Paris) 31, 34; Judgment for plaintiffs versus United, R.* 231; Judgment on Cross-Claim of United, R.* 218; Notices of Appeal filed by United Air Lines, Inc., R.* 260, 262, 264.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on issue of liability, R.* 204; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party claims, R.* 220; Judgment dismissing United Counterclaim against United States and denying Motion for Reconsideration, R.* 231; Order denying United's Motion for New Trial, R.* 257.

NUMBER—18872

NAME—Matlock

GROUP—Nevada—Government Employee

Jurisdiction

Complaint, R.* 1; Answer of United, R.* 11; Cross-Claim of United, R.* 30, 33; Answer of Government to Cross-Claim, R.* 46, 47; Pre-Trial Conference Order, R. 31, 34; Judgment for plaintiffs versus United, R.* 583; Judgment on Cross-Claim of United, R.* 588; Notices of Appeal filed by United Air Lines, Inc., R.* 642, 644, 646.

Record Citations, Other Than to Jurisdiction

Findings of Fact, Conclusions of Law and Order granting Summary Judgment against United on issue of liability, R.* 393; Motion for Reconsideration of Court's ruling dismissing United's Cross-Claims, Counterclaims or Third Party Claims, R.* 572; Judgment dismissing United's Counterclaim against United States and denying Motion for Reconsideration, R.* 588; Order denying United's Motion for New Trial, R.* 634.

PART III.

Index to and Text of Pertinent Statutes

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Federal:

- 5 U.S.C. § 776
- 28 U.S.C. § 1332(1)
- 28 U.S.C. § 1291
- 28 U.S.C. § 1345
- 28 U.S.C. § 1346(b)
- 28 U.S.C. § 1402(b)
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- 28 U.S.C. §§ 2671-2680
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- 49 U.S.C. §§ 402(b) and (e)
- 49 U.S.C. § 452
- 49 U.S.C.A. § 425(a)

Nevada Revised Statutes:

- § 12.090
- § 41.080
- § 52.070(4)
- § 493.130
- § 493.140

California Statutes:

- Code Civ. Proc. § 1908
- Code Civ. Proc. § 1962(6)

TEXT OF STATUTES

5 U.S.C. §776:

Subrogation of United States to employee's right of action; assignment by employee; disposition of moneys collected from person liable.

If an injury or death for which compensation is payable under sections 751—,756, 757—781, 783—791 and 793 of this title is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, the Secretary may require the beneficiary to assign to the United States any right of action he may have to enforce such liability of such other person or any right which he may have to share in any money or other property received in satisfaction of such liability of such other person, or the Secretary may require said beneficiary to prosecute said action in his own name.

If the beneficiary shall refuse to make such assignment or to prosecute said action in his own name when required by the Secretary, he shall not be entitled to any compensation under sections 751—756, 757—781, 783—791 and 793 of this title.

The cause of action when assigned to the United States may be prosecuted or compromised by the Secretary, and if the Secretary realizes upon such cause of action, he shall apply the money or other property so received in the following manner: After deducting the amount of any compensation already paid to the beneficiary and the expense of such realization or collection, which sum shall be placed to the credit of the employees' compensation fund, the surplus, if any, shall be paid to the beneficiary and credited upon any future

payments of compensation payable to him on account of the same injury.

28 U.S.C. § 1332(1):

Diversity of citizenship; amount in controversy; costs.

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs, and is between—

(1) citizens of different States.

28 U.S.C § 1291:

The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court.

28 U.S.C. § 1345:

Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.

28 U.S.C. § 1346(b):

(b) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of

civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

28 U.S.C. § 1402(b):

(b) Any civil action on a tort claim against the United States under subsection (b) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred.

28 U.S.C. § 2402:

Jury trial in actions against United States.

Any action against the United States under section 1346 shall be tried by the court without a jury, except that any action against the United States under section 1346(a)(1) shall, at the request of either party to such action, be tried by the court with a jury.

28 U.S.C. §§ 2671-2680:

§ 2671. Definitions.

As used in this chapter and sections 1346 (b) and 2401 (b) of this title, the term—

“Federal agency” includes the executive departments and independent establishment of the United States, and

corporations primarily acting as, instrumentalities or agencies of the United States but does not include any contractor with the United States.

“Employee of the government” includes officers or employees of any federal agency, members of the military or naval forces of the United States, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

“Acting within the scope of his office or employment”, in the case of a member of the military or naval forces of the United States, means acting in line of duty.

§ 2672. *Administrative adjustment of claims of \$1,000 or less.*

The head of each Federal agency, or his designee for the purpose, acting on behalf of the United States, may consider, ascertain, adjust, determine, and settle any claim for money damages of \$1,000 or less against the United States accruing on and after January 1, 1945, for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award or determination shall be final and

conclusive on all officers of the government, except when procured by means of fraud.

Any award made pursuant to this section, and any award, compromise, or settlement made by the Attorney General pursuant to section 2677 of this title, shall be paid by the head of the federal agency concerned out of appropriations available to such agency.

The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 2673. *Reports to Congress.*

The head of each federal agency shall report annually to Congress all claims paid by it under section 2672 of this title, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

§ 2674. *Liability of United States.*

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United

States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

§ 2675. *Disposition by federal agency as prerequisite; evidence.*

(a) An action shall not be instituted upon a claim against the United States which has been presented to a federal agency, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the government while acting within the scope of his authority, unless such federal agency has made final disposition of the claim.

(b) The claimant, however, may, upon fifteen days written notice, withdraw such claim from consideration of the federal agency and commence action thereon. Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

§ 2676. *Judgment as bar.*

The judgment in an action under section 1346(b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject

matter, against the employee of the government whose act or omission gave rise to the claim.

§ 2677. *Compromise.*

The Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under section 1346(b) of this title, after the commencement of an action thereon.

§ 2678. *Attorney fees; penalty.*

The court rendering a judgment for the plaintiff pursuant to section 1346(b) of this title, or the head of the federal agency or his designee making an award pursuant to section 2672 of this title, or the Attorney General making a disposition pursuant to section 2677 of this title, may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney fees, which, if the recovery is \$500 or more, shall not exceed 10 per centum of the amount recovered under section 2672 of this title, or 20 per centum of the amount recovered under section 1346(b) of this title, to be paid out of but not in addition to the amount of judgment, award, or settlement recovered, to the attorneys representing the claimant.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 2679. *Exclusiveness of remedy.*

The authority of any federal agency to sue and be sued in its own name shall not be construed to au-

thorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

§ 2680. *Exceptions.*

The provisions of this chapter and section 1346(b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

(d) Any claim for which a remedy is provided by sections 741—752, 781—790 of Title 46, relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1-31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

(g) Repealed. September 26, 1950, ch. 1049, § 13-5), 64 Stat. 1043.

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority.

(m) Any claim arising from the activities of the Panama Canal Company.

Federal Rules of Civil Procedure, Rule 13(g):

(g) *Cross-Claim Against Co-Party.* A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

49 U.S.C. § 402(b) and (e):

In the exercise and performance of its powers and duties under this chapter, the Board shall consider the following, among other things, as being in the public interest and in accordance with the public convenience and necessity—

...

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

...

(e) The regulation of air commerce in such manner as to best promote its development and safety. (In effect as of date of mid-air collision, but repealed thereafter—August 23, 1958)

49 U.S.C. § 425(a):

(a) The Board is empowered to perform such acts. to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this chapter, as it shall deem necessary to carry out such provisions and to exercise and perform its powers and duties under this chapter. (In effect as of date of mid-air collision, but repealed thereafter—August 23, 1958)

49 U.S.C. § 452:

Civil airways and facilities—(a) Establishment of airways; duties of Administrator.

(a) The Administrator is authorized and directed to designate and establish such civil airways as may be required in the public interest. The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in civil air navigation utilizing the facilities and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic. In exercising the authority granted in this subsection, the Administrator shall give full consideration to the requirements of National Defense.

(b) The Administrator shall insofar as practicable designate and establish civil airways with relation to visual, mechanical, electrical, radio, or other like aids along the ground for air navigation, and in such manner that not more than one airway shall embrace the same air space, except to the extent necessary for intersection of airways at landing areas or elsewhere, or except when such action is necessary in the interest of safety or efficient operation of aircraft, or when the operation of aircraft over one airway will not interfere with the operation of aircraft over another airway embracing the same air space: *Provided*, That nothing herein shall be construed to affect the promulgation or enforcement of any rules and regulations under this chapter for the control of traffic.

(c) The Administrator, on behalf of the United States, is authorized, where appropriate to carry out this section, (1) to accept any conditional or unconditional gift or donation of money or other property, real or personal, or of services; (2) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease, or otherwise, real property or interests therein, including, in the case of air-navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith; and (3) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interests therein, so acquired. Any such acquisition by condemnation may be made in accordance with the provisions of sections 257-258e of Title 40, or any other applicable Act of Congress: *Provided*, That in the case of condemnations of easements through or other interests in air space, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

(d)(1) The Administrator is authorized, within the limits of available appropriations made by the Congress, to train civilian and governmental air-traffic control-tower operators or to conduct programs for such training, including studies and researches as to the most desirable qualifications for air-traffic control-tower operators. Such training or programs shall be conducted pursuant to such regulations as the Administrator may from time to time prescribe, includ-

ing such fees as the Administrator may deem necessary or desirable. Such training or programs may be carried out by the Administrator either through the use of his own facilities and personnel or by contracts with educational institutions, or other persons.

- (2) The Administrator is authorized to lease or accept loans of such real property, and to purchase, lease, exchange, or accept loans of such personal property and facilities, and to repair, maintain, and operate such property and such facilities, as may be necessary or desirable for carrying out the provisions of this section.
- (3) For the purpose of carrying out his functions under this section, the Administrator is authorized to exercise all powers conferred upon him by any other provisions of this chapter and to appoint and fix the compensation for instructors, airmen, medical and other professional examiners, and experts in training or research without regard to the provisions of the civil-service laws or the Classification Act of 1949. The provisions of section 5 of Title 41 shall not apply to contracts with educational institutions and other persons for the use of air-craft, control towers, or other facilities or for the performance of services authorized by this section.
- (4) Any executive department or independent establishment is authorized to cooperate with the Administrator in carrying out the purposes of this section, and for such purposes of this section,

and for such purposes may lend or transfer to the Administration, by contract or otherwise, or if so requested by the Administrator, lend to educational institutions or other persons cooperating with the Administrator in the conduct of any such training or program, officials, experts, or employees, aircraft, control towers and other property or equipment, and lands or buildings under its control. For the purposes of this section, the Administrator shall have the power to accept and utilize voluntary and uncompensated services, equipment, facilities, and information of any State, Territory, or political subdivision, or any agency thereof.

- (5) Any executive department or independent establishment is authorized to detail personnel of such executive department or independent establishment to be trained as provided herein at Government expense: *Provided*, That no such personnel shall lose their individual status or seniority rating in the executive department or independent establishment merely by reason of absence due to such training.
- (6) There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions of this section. (In effect as of date of mid-air collision, but repealed thereafter—August 23, 1958)

Nevada Revised Statutes:

12.090. *Heirs, guardians, personal representatives may maintain action for death of adult.*

When the death of a person not a minor is caused by the wrongful act or neglect of another, his heirs,

or his personal representatives for the benefit of his heirs, may maintain an action for damages against the person causing the death, or, if such person be employed by another person who is responsible for his conduct, then also against such other person. If such adult person have a guardian at the time of his death, only one action can be maintained for the injury to or death of such person, and such action may be brought by either the personal representatives of such adult person deceased for the benefit of his heirs, or by such guardian for the benefit of his heirs.

41.080. *Liability for death by wrongful act.*

Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the persons who or the corporation which would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to a felony.

52.070. *All other presumptions may be controverted.*

All other presumptions are satisfactory, if uncontradicted. They are denominated disputable presumptions, and may be controverted by other evidence. The following are of that kind:

...

4. That a person takes ordinary care of his own concerns.

493.130. *Operation of aircraft while intoxicated or in reckless manner a gross misdemeanor; penalty.*

Any person operating an aircraft in the air, or on the ground or water, while under the influence of intoxicating liquor, narcotics or other habit-forming drug, or operating an aircraft in the air or on the ground or water, in a careless or reckless manner so as to endanger the life or property of another shall be guilty of a gross misdemeanor and punishable by a fine of not more than \$1,000, or by imprisonment for not more than 1 year, or both fine and imprisonment.

493.140. *Standards for determining careless or reckless aircraft operation.*

In any proceeding charging careless or reckless operation of aircraft in violation of NRS 493.130 to 493.200, inclusive, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

California Statutes:

Code Civ. Proc. § 1908:

[Conclusive effect of a judgment in various cases].

The effect of a judgment or final order in an action or special proceeding before a court or judge of this State, or of the United States, having jurisdiction to pronounce the judgment or order, is as follows:

1. In case of a judgment or order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a decedent, or in respect to the personal, political, or legal condition or relation of a particular person, the judgment or order

is conclusive upon the title to the thing, the will, or administration, or the condition or relation of the person.

2. In other cases, the judgment or order is, in respect to the matter directly adjudged, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing under the same title and in the same capacity, provided they have notice, actual or constructive, of the pendency of the action or proceeding.

Code Civ. Proc. § 1962(6):

6. The judgment or order of a court, when declared by this code to be conclusive; but such judgment or order must be alleged in the pleadings if there be an opportunity to do so; if there be no such opportunity, the judgment or order may be used as evidence.

PART IV.

Instructions Given and Refused.

The Instruction refused as to res ipsa loquitur:

“One of the questions for you to decide in this case is whether the accident involved occurred under the following circumstances:

“First, that it is the kind of accident which ordinarily does not occur in the absence of someone’s negligence;

“Second, that it was caused by an agency or instrumentality in the exclusive control of the defendant.

“If and only in the event that you should find these conditions to exist, you are instructed as follows.” (R. 2144-C.)

This instruction was refused by the District Court and United duly excepted. (48 Rep. Tr. 6439)

The Instruction given as to res ipsa loquitur:

“There is a principle of law known as *res ipsa loquitur*—literally it means “the thing for itself speaks,” or translated, “the thing speaks for itself”—which applies to the defendant United Air Lines, Inc. as a common carrier of passengers for hire. I will now explain this principle of law to you.

“From the happening of the mid-air collision involved in this case, an inference arises that a proximate cause of the occurrence was some negligent conduct on the part of the defendant United Air Lines, Inc. This inference is a form of evidence, and unless there is contrary evidence sufficient to meet or balance it, the jury should find in accordance with the inference.

“You must weigh all of the evidence bearing upon the issue of the negligence of defendant United Air Lines, Inc. including the inference just referred to, and evidence to the contrary, if any. If the evidence tending to prove that the mid-air collision was caused by a failure of the defendant United Air Lines, Inc. to exercise the care required of it by law has greater weight than the evidence to the contrary, you will find in favor of the plaintiffs on that issue.

“In order to meet or balance the inference of negligence, there must be evidence to show either (1) a satisfactory explanation of the mid-air collision—that is, a definite cause for the collision, in which there was no negligence on the part of the defendant United Air Lines, Inc.—or (2) such care on the part of defendant United Air Lines, Inc. as leads to the conclusion that the mid-air collision did not happen because of the failure of said defendant United Air Lines, Inc. to exercise the degree of care required of it by law, but was due to some other cause, although the exact cause may be unknown. If such evidence has at least as much convincing force as the inference of negligence and any other evidence supporting this inference, then you will find against the plaintiffs on that issue.” (55 Rep. Tr. 7323-7325.)

PART V.

Record references with respect to District Court's additur to jury verdict in Nollenberger and Matlock cases.

1. Nollenberger—case 18866—Nevada cases.
 - (a) Jury instructions, Rep. Tr. (Jan. 15, 1963) pp. 653, 654, 666.
 - (b) United's objections to special interrogatories, Rep. Tr. (Jan. 8, 1963) pp. 18, 24, 33.
 - (c) Special verdict on damages, R. (Nollenberger) 402.
 - (d) Notice of Motion and motion for new trial and memorandum of points and authorities, R. (Nollenberger) 404.
 - (e) Certificate of E. L. Chapin, R. (Nollenberger) 408.
 - (f) Memorandum of points and authorities in opposition to plaintiff's motion for new trial. R. (Nollenberger) 412.
 - (g) Affidavit of E. L. Chapin in support of motion for new trial. R. (Nollenberger) 425.
 - (h) Affidavit of Everett A. Res. R. (Nollenberger) 429.
 - (i) Motion for submission of additional interrogatories to the jury, or in the alternative, for correction of general verdict to conform to special interrogatories, or in the alternative, for a new trial. R. (Nollenberger) 436.
 - (j) Memorandum of points and authorities in support of said motion. R. (Nollenberger) 461.
 - (k) Affidavit of E. L. Chapin in support of said motion. R. (Nollenberger) 441.

(l) Memorandum in opposition to said motion. R. (Nollenberger) 483.

(m) Notice of motion and motion to strike affidavit of E. L. Chapin. R. (Nollenberger) 478.

(n) Memorandum on motions for new trial. R. (Nollenberger) 494.

2. Matlock—Case 18872—Nevada cases.

(a) Jury instructions, Rep. Tr. (Jan. 23, 1963) pp. 536, 538, 549.

(b) United's objections to special interrogatories, Rep. Tr. (Jan. 23, 1963) p. 564 (refers to prior objection made in Nollenberger case).

(c) Special verdict on damages. R. (Matlock) 432.

(d) Motion for submission of additional interrogatories to the jury, or in the alternative, for correction of general verdict to conform to special interrogatories, or in the alternative, for a new trial. R. (Matlock) 483.

(e) Memorandum of points and authorities in support of said motion. R. (Matlock) 488.

(f) Affidavit of E. L. Chapin in support of said motion. R. (Matlock) 505.

(g) Memorandum in opposition to said motion. R. (Matlock) 530.

(h) Notice of motion and motion to strike affidavit of E. L. Chapin. R. (Matlock) 525.

(i) Memorandum on motion for new trial. R. (Matlock) 541.

PART VI.

*Reference Index to Exhibits (on Liability, Indemnity
and Contribution)*

<u>Court's Exhibits</u>	<u>Reporter's Transcript For Identification</u>	<u>In Evidence</u>
X	190	
1-A	5990	
A (Brown Book)		
<u>Plaintiffs' Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
P-1	859	6010
P-2	2247	
P-3	2686	2687
P-4	2686	2687
P-5		5263
P-6		5292
P-7		5294
G-7		462-803 (as GPU-7A)
G-9		407
G-10		407
G-53		574
G-55		407
G-56		407
G-57		575
G-58		575
G-59A		407 (as G-59)
G-59B		407 (as G-59)- 3418 (as GU-59B)
G-60		407
PG-71		6015

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
GU-83		544
PG-105		6016
G-117A	459	462 (as G-7)
U-9		407
U-10		407
U-13		407
U-22		407-2439 (as PU-22)
U-24		407-2439 (as PU-24)
U-26		407-2984 (as PU-26)
U-27		407
U-29		407
U-57A	373	

<u>Defendant United</u> <u>Air Lines'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
PU-1		3411
U-3		5940
U-4		5940
U-15		4979
U-16		4973
U-18		5902
U-19		5387
U-20		3431
U-20B		5808
UG-20C	5790	5909
PU-23		2439
U-28A		4413
U-28B		4413
U-33		5360
U-34		5360
U-35		5360
U-38		5503

Defendant United Air Lines' Exhibits	For Iden- tification	In Evidence
U-39		5542
U-41		5960
U-41A	2064	5967
U-41B	2064	5967
U-42A	944	
U-44	5541	5639
U-46A, B,C,D,E,	1337	
U-47B		5583
U-47F		5617
U-47G-1	5600	5616
U-47H		5599
U-47H-1		5617
U-48A		5615
U-48B	326	5617
U-49		5581
U-51A		5966-6167
U-55	1337	
U-57		5971
U-70D	1337	
U-71		1230
U-72	2038	5971
U-73	3340	3373
U-74	3821	
U-75	3821	
U-76		4112
U-77	4311	
U-78	4311	
U-79A, B, C		5066
U-80A to U-80K	5144	

Defendant United Air Lines' <u>Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
U-80A, B		5263 (as P-5)
U-80A to U-80L		5263
U-81	5204	5266
U-82A	5205	5271
U-82B	5205	5271
U-83	5206	5273
U-84	5487	5488
U-85	5513	
U-85A	5513	
U-86	5513	
U-86A	5513	
U-87	5619	
U-88	5623	5625
U-89	5625	5629
U-90		5630
U-91		5632
U-92		5632
U-93		5632
GU-14		7174
GU-21A (Brennan Chart)	2138	5823 (Erroneously as UG-21A
GU-21B (Brennan Chart Blowup)	2199	2225-5960
G-48A		4979
G-48B		4979

<u>Government's Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
G-1		762
G-2		765
GU-3A		677
GU-3B		677
GU-3C		677
GU-3D		677
G-4		774
G-6		784
GPU-8 (both sides)		809
GU-13		874
GU-13A		874
G-19		1671
G-22		3002
G-23		3002
G-24		3002
GU-25		3009
GU-26		3009
GU-27		3009
G-28		3038
G-29		3038
G-30		3038
G-31		3038
G-32		3042
G-33		3042
G-34		3042
G-35		3063
G-36		3063
G-37		3063
G-38		3063
G-39		3063
G-40		3097

<u>Government's Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
G-41		3097
G-42		3097
G-43		2514
G-44		1359
G-45		1399
G-47		5976
G-49		4436
G-51		2740-5973
GU-52		2788
G-54		2899
GU-59B		3418
G-61		4627
G-62		5978
G-64		5978
G-65		5978
G-67		5978
G-68		5978
G-70		5978
G-73		5978
G-75		5978
G-76		5978
G-77		5978
G-78		5978
G-79		5978
GU-84		3418
G-85		3111
G-86		3113
G-87		3134
G-89		5978
G-90		4627
G-91		5978
G-92		5979

<u>Government's Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
G-93		5979
G-94		5979
G-97		4349
G-98		4349
G-114		1322
G-117	189	857
G-117A	459	803 (as GPU-7A)
G-118		857
G-119		1849-5974
G-121		6042
G-122		3644
G-124		3643
G-125		3659
G-126		3770
G-127		3972
G-128		3769
G-128A	3769	
G-129		3767
G-130		3767
G-131	1398	
G-132		3955
G-133	1398	3960
G-134	1398	3963
G-135	1337	3972
G-136	6040	
G-138	639	5975
G-139	673	
G-140	819	820
G-141	1854	1855
G-141A	2477	
G-141B	2477	

<u>Government's Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
G-141C		3126
G-141D		3126
G-142	1943	2372
G-143	3610	3766
G-144	3663	
G-145	3730	3767
G-146	6062	
G-147	6093	6100
G-148	6093	6105
G-149	6093	6105
G-150	6094	6105
G-151	6094	6105
G-152	6094	6105
G-153	6095	6105
G-154	6095	6105
UG-21A		2373 (Erroneously as GU-21A)
UG-21B		2373 (Erroneously as GU-21B)

Reference Index to Exhibits (Damages in each Case)
(Wiener, Case No. 18510)

<u>Plaintiffs' Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>
1	29	131
2-A to 2-J	36	
2-A to 2-K		435
4		29
5		29
6		29
7	48	52

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
8	48	52
9	49	52
10	49	52
11		52
12		52
13		52
14		52
14-A	428	524
15-A, 15-B and 15-C	72	87-441
16	72	87
16-A	430	524
16-B	432	524
16-C	432	524
17-A to 17-J	133	414
17-K	433	524
18-A to 18-L	145	158
19-A to 19-BO		181
20		414
 <u>Defendants'</u> <u>Exhibits</u>	 <u>For Iden-</u> <u>tification</u>	 <u>In Evidence</u>
A		29
U-71		160

(Emanuel, Case No. 18511)

<u>Plaintiffs' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
1	43	
2-A, 2-B and 2-C		45
3	80	
4		9
5		9
6		9
7	268	268
<u>Defendants' Exhibits</u>		
A		9

(Larava, Case No. 18512)

1		137
4		47
5		47
6		47
<u>Defendants' Exhibits</u>		
A		47
B-1	122	
B-2	122	
C-1	134	
C-2	134	
C-3	134	
C-4	134	
C-5	134	
C-6	134	
C-7	134	
C-8	134	
C-9	134	
C-10	134	
D	138	138

(Simmons, Case No. 18513)

<u>Plaintiffs' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
1	9	10
2	9	10
3	9	10
4		10
5		10
6		10
7		127
<u>Defendants' Exhibits</u>		
A		10

(Kean, Case No. 18514)

<u>Plaintiffs' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
1	28	36
1-A		183
1-B		200
2	52	55
3	52	55
3-A	52	55
4		11
5		11
6		11
7	238	294
<u>Defendants' Exhibits</u>		
A		11
B		184
C	238	294

(Petrie, Case No. 18516)

<u>Plaintiffs' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
1	57	58
2	57	58
3	79	79
4		16
5		16
6		16
7	81	83
8	82	83
9	82	83
10	82	83
11	147	234
12	147	234
13		234

<u>Defendants' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
A		16
B	229	234

(Kaufman, Case No. 18517)

<u>Plaintiffs' Exhibits</u>	<u>For Iden- tification</u>	<u>In Evidence</u>
1	17	18
2-A through 2-G	134	153
3-A	179	180
3-B	179	180
4		6
5		6
6		6
7	198	198
8	245	245
9	246	246

Defendants'
Exhibits

A		6
B	50	

(Rankin, Case No. 18521)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Ident-</u> <u>tification</u>	<u>In Evidence</u>
1		51
2	99	
3	101	
4	173-179	208
5	173	178
6	173	181

Defendants'
Exhibits

<u>For Ident-</u> <u>tification</u>	<u>In Evidence</u>
A	181
B	229

(Kallenbaugh, Case No. 18522)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Ident-</u> <u>tification</u>	<u>In Evidence</u>
1	25	26
2	25	26
3	36	
4	38	
5		189
6		189
7		191
8	96	98
9-A	106	108
9-B	106	108

9-C	106	108
9-D	106	108
10-A	131	132
10-B	131	132
11	139	
11-A		193
11-B		193
12		194

<u>Defendants'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
A	13	60 & 195
B	45	197
D	168	

(Thomas, Case No. 18523)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	33	52
2-A	35	52
2-B	35	52
2-C	35	52
4	9	9
5	9	9
6	9	9
<u>Defendants'</u> <u>Exhibits</u>		
A		9

(Aaronson, Case No. 18524)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	20	21
2	22	26
3	26	28
4		8
5		8
6		8
7		37
8-A	43	46
8-B	43	46
8-C	43	46
8-D	43	46
8-E	43	46
8-F	43	46
9	43	43
10	72	73
11	72	74
12	203	204
13	205	206
14	206	208
15	260	
<u>Defendants'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
A		8
B	91	150
C	91	150
D	107	150
E	114	150
F	148	
G	156	158
H	166	

(Weil, Case No. 18525)

(Trujillo, Case No. 18526)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
W-1		244
W-2		247
W-3		248
W-4		240
W-5		240
W-6		240
W-7 to W-12	256	256
K-1	333	526
K-2	431	444
K-3	444	444
K-7	445	445
S-1	559	559

<u>Defendants'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
A		240
B	346	
C	414	
A-1	478	
A-2	478	
G-B	508	524
G-C	570	
U-C	568	

(Triedel, Case No. 18527)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	24	41
2	24	30
3	87	89
4		16

5		16
6		16
7	142	142

Defendants'
Exhibits

A		16
B	183	185
C	183	185

(Bailey, et al., Case No. 18528)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1		92
4		47
5		47
6		47

<u>Defendants'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
A		47
B		75

(Rachford, Case No. 18529)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	22	56
2	52	56
4		6
5		6
6		6
7	129	

Defendants'
Exhibits

A		6
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(Munch, Case No. 18530)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	32	33
2-A	32	34
2-B	32	34
2-C	32	34
2-D	32	34
2-E		67
3	81	82
4		28
5		28
6		28
 <u>Defendants'</u> <u>Exhibits</u>		
A		28

(Hight, Case No. 18531)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	31	32
2	33	41
3	35	41
4		11
5		11
6		11
7		42
8		94
9	146	161
10	147	161
11	147	161
12		236

Defendants'
Exhibits

A		11
B	111	
C		236

(Parsons, Case No. 18532)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	56	73
2	56	73
3		88
4		73
5		73
6		73
7	97	103
8		127

Defendants'
Exhibits

A		73
B		127

(Nollenberger, Case No. 18666)

<u>Plaintiffs'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
1	22	23
2	36	37
3	41	44
4	48	50
5	56	58
6		65
7	182	185
8	183	185

9		199
10		199
10-A		415
11		200
12	217	219
12-A		232
13	217	227
14	217	249
15	217	249
16	373	377
17	373	377
18	373	377
19		379
20	393	394
21	417	419
22	466	474
23	474	475
24	477	481
25	482	482

<u>Defendants'</u> <u>Exhibits</u>	<u>For Iden-</u> <u>tification</u>	<u>In Evidence</u>
A	271	510
B	332	510

(Thompson, Case No. 18867)

<u>Plaintiffs'</u> <u>Exhibits</u>		
1	18	18
2	38	39
3	46	49
4	50	50
5	53	56
5-A		236
6		103

6-A		104
6-B		106
7	61	
7-A	62	62
8	62	65
8-A	63	65
9		144
10		144
10-A		144
11		144
12	118	119
13	118	119, 268
13-A	260	
13-B	262	
14	118	119
15	118	119
16	167	173
16-A	167	173
16-B	167	173
17	185	186
18	185	186
19		177
22		144
23		144
24		144
26		144
26-A		144
27		144
27-A		144, 264
27-B		265
27-C		270
28		367

Defendants'
Exhibits

A	319
B	319
C	319
X	313

(Theobald, Case No. 18868)

Plaintiffs'
Exhibits

1	15	15
2	36	37
3	41	43
4	49	52
5	59	62
5-A	184	196
5-B	196	196
6	75	
6-A	76	77
6-B	403	405
6-C		405
6-D		407
7	210	293
8	210	293
9	210	293
10	210	293
10-A	210	293
11	210	293
12	214	215
13	216	218
14	221	273
15	276	277
16	326	327

16-A	326	327
17	327	338
17-A	327	338
18	337	338
19	353	353
20	360	360
20-A	360	360
22	210	293
23	210	293
24	210	293
26	210	293
26-A	210	293, 567
27	436	
28	517	531
28-A		531
29		620
30	613	618
31	613	618
32	653	667
32-A	653	667

Defendants'
Exhibits

A		625
B		625
C		625
E		625
F	468	
G	487	
H	539	625
I	627	

(Paris, Case No. 18869)

Plaintiffs'
Exhibits

1	121	122
2	179	
3	181	181
4		321
5		321
6		321
7		322
8		323
9		324
10	326	326
11	351	354
12		355

Defendants'
Exhibits

A	346	378
B	258	448

(Matlock, Case No. 18872)

Plaintiffs'
Exhibits

1	16	18
2	26	28
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